

dictment is submitted to the court without the intervention of a jury, it shall be lawful for such amendment to be made as aforesaid, and also to postpone the hearing of the said case for such time as it shall determine to be necessary.

This section provides for amendment of indictment when the name of any person other than defendant has been erroneously set forth therein; such amendment is made according to the proof in cause, same being authorized only after jury has been sworn on indictment. *Watts v. State*, 99 Md. 33; *State v. Barrett*, 148 Md. 155.

Indictments—Statement of Ownership or Possession.

An. Code, 1924, sec. 552. 1912, sec. 495. 1904, sec. 437. 1888, sec. 285. 1852, ch. 63, sec. 1.

648. In any indictment for any felony or misdemeanor wherein it shall be requisite to state the ownership or possession of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, tenants in common or trustees, it shall be sufficient to name one of such persons, and to state such property to belong to or be in possession of the person so named, and another or others as the case may be; and whenever in any indictment for any felony or misdemeanor, it shall be necessary to mention for any purpose whatever any partners; joint tenants, parceners, tenants in common or trustees, it shall be sufficient to describe them in the manner aforesaid.

This section referred to in construing sec. 647. See notes thereto. *State v. Barrett*, 148 Md. 157.

Indictments—Quashing—Arrest of Judgment.

An. Code, 1924, sec. 553. 1912, sec. 496. 1904, sec. 438. 1888, sec. 286. 1852, ch. 63, sec. 2.

649. No indictment or presentment for felony or misdemeanor shall be quashed, nor shall any judgment upon any indictment for any felony or misdemeanor, or upon any presentment, whether after verdict, by confession or otherwise, be stayed or reversed for the want of a proper or perfect venue, when the court shall appear by the indictment, inquisition or presentment, or by the statement of the venue in the margin thereof to have jurisdiction over the offense, nor for the omission or misstatement of the title, occupation or degree of the defendant or other person or persons named in the said indictment, inquisition or presentment nor, for the want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or *vice versa*, nor for omitting to state the time at which the offense was committed in any case where time is not of the essence of the offense, nor for stating the time imperfectly, nor for stating the offense to have been committed on a day subsequent to the finding of the indictment or making the presentment, or on an impossible day, or on a day that never happened, or by reason of any mere defect or imperfection in matters of form which shall not tend to the prejudice of the defendant, nor for any matter or cause which might have been a subject of demurrer to the indictment, inquisition or presentment.

Demurrer.

Since adoption of this section, the usual and only proper mode of testing constitutionality of a statute under which a party is indicted is by demurrer to indictment. *Foote v. State*, 59 Md. 266.